

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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| LILLIAN FIGUEROA, | : | |
| | : | |
| Plaintiff, | : | 06 Civ. 3676 (PAC) (KNF) |
| | : | |
| - against - | : | <u>MEMORANDUM</u> |
| | : | <u>OPINION & ORDER</u> |
| DEIGHTON "CLEVE" TAYLOR and | : | |
| RIVERBAY CORPORATION, | : | |
| | : | |
| Defendants. | : | |

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HONORABLE PAUL A. CROTTY, United States District Judge:

Pro se Plaintiff Lillian Figueroa ("Figueroa") sued defendants Deighton "Cleve" Taylor and Riverbay Corporation ("Defendants"), alleging a violation of the Driver's Privacy Protection Act of 1994 ("DPPA"), 18 U.S.C. §2721 et seq. The alleged violation consists of Defendants' disclosure of Figueroa's home address from her New York State learner's permit, which permit Figueroa had previously provided to Defendants. Defendants move to dismiss the complaint for failure to state a claim upon which relief may be granted, under Fed. R. Civ. P. 12(b)(6).

This case was referred to United States Magistrate Judge Kevin N. Fox, who issued his Report and Recommendation ("R&R") on September 15, 2006, recommending that Defendants' motion be granted. The Magistrate Judge provided ten days for written objections, pursuant to Fed. R. Civ. P. 72, and specifically advised that the failure to file objections within that period would result in a waiver of the objections and the preclusion of appellate review. No objections have been filed.

DISCUSSION

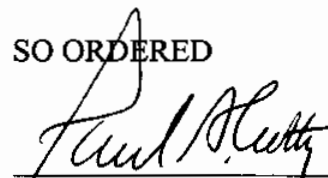
“To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003). Magistrate Judge Fox determined that the DPPA does not apply when a defendant obtains another person’s “personal information” from that person, rather than from a state motor vehicle agency. Since Figueroa concededly provided her learner’s permit to Defendants (and the state department of motor vehicles provided no information whatsoever), the Court agrees with Magistrate Judge Fox’s determination that Figueroa has not stated a claim under the DPPA. Accordingly, the Court accepts and adopts the Report and Recommendation as its opinion, and Defendant’s motion to dismiss is GRANTED.

I decline to issue a certificate of appealability. Figueroa did not file objections to the Report and Recommendation, as she was required to do in order to preserve her right to appeal. Pursuant to 28 U.S.C. § 1915(a)(3), I also find that any appeal from this order would not be taken in good faith.

The Clerk of the Court is directed to enter an Order closing this case.

Dated: New York, New York
October 23, 2006

SO ORDERED



PAUL A. CROTTY
United States District Judge

Copies Mailed To:

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